

Appl. No. 09/989,313  
Response to Office Action of December 4, 2003  
Page 7

### REMARKS

Claims 1-4, 6, 9-12, 14, 15, 18-23, and 40-60 are pending in this Application. As a result of the above amendments, claims 1, 2, 6, 9-11, 14-15, 18-19, 40, 42, 43 and 56 have been amended, claims 47-55 have been canceled, and claims 61-66 have been added (no new matter has been added). Consequently, claims 1-4, 6, 9-12, 14, 15, 18-23, 40-46 and 56-66 are at issue.

### CLAIM REJECTIONS - 35 U.S.C. §102

In paragraph three of the Office Action, the Examiner rejected claims 18-23 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,782,165 to Glenboski et al. ("Glenboski"). Applicant respectfully traverses this rejection and requests allowance of the claims at issue.

Amended independent claim 18 is directed to an outdoor cooking assembly and requires: a barbecue grill assembly having a cooking chamber and a mating lid, the cooking chamber having a heat source positioned in a lower portion of the cooking chamber; a cooking pan removably positioned within the cooking chamber, the cooking pan having a central portion with a *curvilinear* cooking surface, the cooking pan having a flange *downwardly sloped* from an outer edge of the central portion, the flange having an engaging surface; and, at least one support member *extending inward into said cooking chamber and positioned on* an inner surface of the cooking chamber, wherein the support member engages the flange engaging surface to support the cooking pan within the cooking chamber.

Glenboski does not anticipate amended claim 18 because all elements of the claim are not disclosed. See *Ex Parte Levy*, 1990 Pat. App. LEXIS 18, \*3, 17 U.S.P.Q. 2d 1461 (BPAI 1990); *In re Lange*, 209 U.S.P.Q. 288 (CCPA 1981) (in order to anticipate, the reference must describe or disclose all of the limitations of the claims). First, Glenboski does not disclose or suggest a flange downwardly sloped from an outer edge of the central portion. Referring to Figs. 12 and 13 of the Application, flange of claim 18 is shown as being downwardly sloped from the central portion of the cooking device. To the contrary and as shown in Fig. 2B of Glenboski, the flange 106 laterally extends from the side wall 104 of the tray 22 and is not downwardly sloped. (Col. 4, lns. 5-15). Second, Glenboski does not disclose or suggest the support member extending inward into said cooking chamber and positioned on an inner surface of the cooking chamber for supporting the cooking pan. Even cursory review of Figs. 2A, 2B, 4 and 6 shows that Glenboski's tray 22 nests

Appl. No. 09/989,313

Response to Office Action of December 4, 2003

Page 8

within removable pan 60 wherein the flange 106 "rests upon support surface 82 of pan 60." (See Glenboski, col. 4, lns. 10-15). One of ordinary skill recognizes that the removable pan 60 is not a support member extending inward and positioned on an inner surface of the cooking chamber 32 as required by claim 18. For each of these reasons, Glenboski does not anticipate or suggest independent claim 18. Further, Applicant notes that none of the cited references disclose the structure identified above. Therefore, claim 18 should be allowed.

Claims 19-23 depend from amended independent claim 18 and therefore require all elements of claim 18. For the reasons explained with respect to that claim, claims 19-23 are neither anticipated by nor rendered obvious by Glenboski.

#### **CLAIM REJECTION - 35 U.S.C. §103**

In paragraph five of the Office Action, the Examiner rejected claims 1-4, 6, 9-12, 14, 15 and 47-49 under 35 U.S.C. §103 as allegedly obvious in view of Glenboski and U.S. Patent No. 5,363,977 to Hoff ("Hoff"). Applicant respectfully traverses this rejection and requests allowance of the claims at issue.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference(s) must teach or suggest all of the claim limitations. The examiner bears the initial burden on factually supporting any prima facie conclusion of obviousness. *See* MPEP § 2142; *In re Vaack*, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Applicant hereby incorporates its previous argument that the prima facie case of obviousness has not been established since there is no suggestion or motivation to combine Glenboski with Hoff. Furthermore, Applicant reiterates that the Examiner's proposed combination of references alters the structure and operation of Glenboski and as a result, the prima facie case of obviousness has not been established.

#### **A. Claims 1-4 and 6**

Amended independent claim 1 is directed to a cooking device for use with a cooking chamber of a barbecue grill, and requires: a central portion with a curvilinear cooking surface; an upwardly extending first wall extending radially outward from the central portion to an intermediate

Appl. No. 09/989,313

Response to Office Action of December 4, 2003

Page 9

top wall; and, a downwardly directed flange extending radially outward from the top wall, the flange having an outer edge configured to engage an inner surface of the cooking chamber.

As an additional ground for reversing the Section 103 rejection, Applicant submits that the combination of Glenboski and Hoff does not disclose or suggest all limitations of claim 1. Specifically, the combination fails to suggest a downwardly directed flange extending radially outward from the top wall. As explained above, Glenboski's tray 22 has a lateral flange 106 that is not downwardly directed. Referring to the basic image shown in Fig. 1A of Hoff, the cooking pot 36 has a top wall (not labeled) but lacks the required downwardly directed flange. In addition, neither Glenboski nor Hoff suggest a flange with an outer edge configured to engage an inner surface of the cooking chamber. With respect to Glenboski, engagement with an inner surface is not suggested since Figs. 2A, 2B, 4 and 6 show that the tray 22 nests within removable pan 60 wherein the flange 106 "rests upon support surface 82 of pan 60." (See Glenboski, col. 4, lns. 10-15). With respect to Hoff, no structure engages the inner surface of the cooking chamber/barbecue 36. One of ordinary skill recognizes that the cylindrical wall 22 and the resulting housing 20 (see Fig. 1A) are not the required cooking chamber. For these reasons, the combination of Glenboski and Hoff neither discloses nor suggests all of the limitations of amended claim 1 and as a result, this claim is allowable.

Claims 2-4 and 6 depend from amended independent claim 1 and therefore require all elements of claim 1. For the reasons explained with respect to that claim, claims 3, 4 and 6 are not rendered obvious and are allowable.

**B. Claims 9-12, 14 and 15**

Amended independent claim 9 is directed to a cooking device for use with a cooking chamber of a barbecue grill, and requires: a generally annular top wall; a central portion recessed from the top wall, the central portion having a curvilinear cooking surface; and, *a flange extending radially outward and downward from the top wall, the flange having an outer edge surface located an extent below the top wall* and configured to engage an inner surface of the cooking chamber.

The combination of Glenboski and Hoff does not disclose or suggest all limitations of claim 9. As explained above with respect to claim 1, the combination fails to suggest: (i) a flange extending radially outward and downward from the top wall; (ii) a flange having an outer edge surface located an extent below the top wall; and (iii) a flange configured to engage an inner surface

Appl. No. 09/989,313  
Response to Office Action of December 4, 2003  
Page 10

of the cooking chamber and support the cooking device in the cooking chamber. For each of these reasons, amended claim 9 is not rendered obvious by the combination of Glenboski and Hoff.

Claims 10-12,14 and 15 depend from amended independent claim 9 and therefore require all elements of claim 9. For the reasons explained with respect to that claim, claims 10-12,14 and 15 are not rendered obvious and are allowable.

In paragraph six of the Office Action, the Examiner rejected claims 40-46 and 50-60 under 35 U.S.C. §103 as allegedly obvious in view of Glenboski, U.S. Patent No. 5,363,977 to Hoff ("Hoff"), and U.S. Patent No. 5,213,028 to Chang ("Chang"). Applicant respectfully traverses this rejection. Applicant has canceled claims 50-55.

C. Claims 40-46

Amended independent claim 40 is directed to a cooking device for use with a cooking chamber of a barbecue grill, and requires: a generally annular top wall; a central portion recessed from the top wall, the central portion having a curvilinear cooking surface; *a flange extending radially outward and downward from the top wall*; and, *at least one extendable handle operably connected to the top wall*.

The combination of Glenboski, Hoff and Chang does not disclose or suggest all limitations of claim 40. First, and as explained above, neither Glenboski nor Hoff suggest a flange extending radially outward and downward from the top wall. Referring to Fig. 17 of Hoff, when the cover 132 is positioned on the vessel 130, no structure extends radially outward and downward from the unlabeled top wall. As shown in Figs. 18-21, when the cover 132 is removed from the vessel 130 for use as a cooking utensil, no structure extends radially outward and downward from the rim of the cover 132. The bail mountings 140, 142 are positioned below the rim of the cover 132 and extend from the cover body 134, not the rim. Second, the combination of Glenboski, Hoff and Chang does not suggest an extendable handle operably connected to the top wall. On page 4 of the Office Action, Examiner acknowledged that the combination of Glenboski and Hoff does not disclose an extendable handle attached to the top wall. Turning to Chang, a close study of the figures reveals that the bails or handles 136, 138 are not operably connected to the top wall of the cover 132.

Appl. No. 09/989,313

Response to Office Action of December 4, 2003

Page 11

Instead, the handles 136, 138 are pivotally connected to the mountings 140, 142. Since the mountings 140, 142 are positioned below the upper rim of the cover 132 and extend from the cover body 134 (see Fig. 18), the mountings 140, 142 cannot be construed to be the claimed top wall. For each of these reasons, amended claim 40 is not rendered obvious by the combination of Glenboski, Hoff and Chang and is allowable.

Amended claim 42 depends from independent claim 40 and further requires an intermediate segment of the handle passes through an opening in the top wall, the intermediate segment having a first position located below the top wall and a second position located above the top wall. The combination of Glenboski, Hoff and Chang does not suggest a handle with an intermediate segment that passes through an opening in the top wall. Referring to Figs. 17-21 of Chang, no portion of the handles 136, 138 pass through an opening in the top wall of the cover 132. In fact, an end of the handle 136, 138 is received by the opening 152 in the side wall of the mounting 140, 142. For this reason and the reasons explained above with respect to independent claim 40, dependent claim 42 is allowable over the combination of Glenboski, Hoff and Chang.

Claims 41 and 43-46 depend from amended independent claim 40 and therefore require all elements of claim 40. For the reasons explained with respect to that claim, claims 41 and 43-46 are not rendered obvious and are allowable.

D. Claims 56-60

Amended independent claim 56 is directed an outdoor cooking assembly and requires: a barbecue grill assembly having a cooking chamber and a mating lid, the cooking chamber having a heat source positioned in a lower portion of the cooking chamber; a cooking pan removably positioned within the cooking chamber, the cooking pan having a central portion with a curvilinear cooking surface, the cooking pan further having a top wall and a *flange extending radially outward and downward* from the top wall wherein flange has an engaging surface, the cooking pan further having at least one collapsible handle connected to the top wall; and, at least one *support tab extending radially inward from an inner surface of the cooking chamber*, the support tab configured to engage a portion of the flange engaging surface to support the cooking pan within the cooking chamber.

Appl. No. 09/989,313  
Response to Office Action of December 4, 2003  
Page 12

The combination of Glenboski, Hoff and Chang does not disclose or suggest all limitations of claim 56. First, and as explained above for claim 40, the limitation of a flange extending radially outward and downward from the top wall is not suggested by Glenboski, Hoff or Chang. Second, none of the combined references suggest a support tab extending radially inward from an inner surface of the cooking chamber. As explained above for claim 18, Glenboski's removable pan 60 is not a support member extending radially inward from the inner surface of the cooking chamber 32 as required by claim 56. Similarly, neither Hoff nor Chang suggest a support tab extending radially inward from the cooking chamber. For each of these reasons, amended claim 56 is not rendered obvious by the combination of Glenboski, Hoff and Chang and is allowable.

Claims 57-60 depend from amended independent claim 56 and therefore require all elements of claim 56. For the reasons explained with respect to that claim, claims 57-60 are not rendered obvious and are allowable.

#### **ADDED CLAIMS**

Applicant has added claims 61-66 and submits that each claim is fully supported by Applicant's disclosure and does not introduce any new matter. Independent claim 61 is directed to a cooking device for use within a cooking chamber of a barbecue grill and requires: a generally annular top wall; a central portion recessed from the top wall, the central portion having a curvilinear cooking surface; a flange depending from the top wall, the flange having an outer engagement surface for contact with an inner surface of the cooking chamber; a collapsible handle assembly having a gripping portion, an intermediate portion that is slidably received by an opening in the top wall, and a blocking portion to engage with the top wall to prevent the handle assembly from being disassociated with the top wall, wherein the handle assembly is vertically moveable between a first position wherein the gripping portion rests against a portion of the top wall, and a second position wherein the gripping portion extends a distance from the top wall.

With respect to independent claim 61, none of the cited art, including Chang, disclose or suggest either: (i) a collapsible handle with an intermediate portion that is slidably received by an opening in the top wall, or (ii) a blocking portion to engage with the top wall to prevent the handle assembly from being disassociated with the top wall. Consequently, added claims 61-66 are allowable.

Appl. No. 09/989,313  
Response to Office Action of December 4, 2003  
Page 13

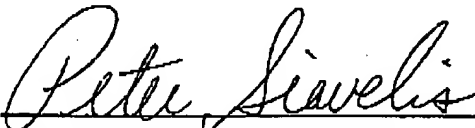
**CONCLUSION**

Based on the foregoing, Applicants submit that the pending claims are in a condition for allowance and respectfully request an early notice of the same. The Examiner is invited to call the undersigned if any issues can be resolved through a telephonic interview.

Respectfully submitted,

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**CERTIFICATE OF FACSIMILE (37 C.F.R. § 1.8a)**

I hereby certify that this correspondence is, on the date shown below, being facsimile transmitted to Examiner Josiah C. Cocks, Group 3743, at the U.S. Patent and Trademark Office to Fax No. 703/872-9302 with a confirming facsimile transmittal to 703/308-7764 on March 4, 2004.

  
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